

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 00-6273-CR-HUCK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ARIEL HERNANDEZ, et al.,

Defendants.

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FILED  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE  
SEP 10 2003

**MOTION TO ALLOW COUNSEL ACCESS TO LAPTOP COMPUTERS  
DURING COURT PROCEEDINGS**

COMES NOW the Defendant, Ariel Hernandez, by and through his undersigned counsel, pursuant to the Fifth and Sixth Amendment to the United States Constitution, and respectfully requests this Honorable Court enter an Order allowing defense counsel access to a Laptop computers during the court proceedings in this matter, and as grounds and in support thereof states as follows:

1. Undersigned counsel represents the Defendant, Ariel Hernandez.
2. Hearings and court proceedings are anticipated in this matter.
3. Defendant, Ariel Hernandez, asserts that in order to insure effective assistance of counsel, his attorney, Richard L. Rosenbaum, should be permitted to bring his Laptop computer into the Federal Courthouse.
4. Undersigned counsel has been permitted and have utilized in the past, a computer in Federal cases in the Southern and Northern Districts of Florida and in the Eastern District of Pennsylvania.
5. The computer which will be utilized during pretrial and trial proceedings is extremely quiet and shall neither disrupt court proceedings nor distract the court in any manner.

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6. Allowance of the introduction of Laptop computer into the Federal Courtroom shall allow undersigned access to all Supreme Court and Federal cases (Federal Reporter, Federal Second Reporter, Federal Third Reporter, as well as United States Code Annotated and other materials).

7. Undersigned counsel is amenable to the United States Marshals Service fully inspecting any and/or all computer materials prior to undersigned seeking to introduce them into the Federal Court facility.

8. Computerized research and note keeping is no longer "the wave of the future." Many Federal judges utilize computers on a daily basis. To prohibit undersigned counsel from utilizing computerized research and note taking equipment shall deny Defendant, Ariel Hernandez, effective assistance of counsel and due process of law pursuant to the Fifth and Sixth Amendments to the United States Constitution.

9. "The practice of law is built on decision, statutes, regulations and directives ... the list of resources is growing, particularly in the governmental area. The legal researcher is well-advised to make periodic forays into the [Internet] system to discover more sources." How to Use the Internet for Legal Research, The Florida Bar News, August 1, 1995, p. 32.

10. The use of personal computers is an integral part of practicing law.<sup>1</sup> Getting Lawyers to Use Computers Can be Tricky, The Florida Bar News, October 15, 1995, p. 24. [The

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"General change is upon us. Not many years ago, my law school offered popular optional training in basic word processing. Now, nearly everyone enters the school with that knowledge, if not his or her own personal computer as well. Of course, some law students, lawyers and judges still do not or will not use computers. Although undoubtedly a significant number, these technological doubters ought not to be given undue attention. Somewhere a few lawyers probably insist on drafting documents with quill pens. Notably, many of us still have quill pens, but only as mementos of bygone years."  
3 Emory L.J. 1095, 1096 (1994), Fredric I. Lederer

1994 Survey of Automation in Smaller Law Firms, conducted by the ABA's Legal Technology Resource Center noted that 83% of the respondents reported using a personal computer in their practice.]

11. The instant availability of up to date case law will reduce trial errors. 3 Emory L.J. 1095, 1108 (1994) [The ability to have instant access to a case when unsure as to its applicability may greatly improve the accuracy of legal rulings. Indeed, the mere knowledge by counsel that they may be called on their legal authorities in public by the court may raise the standard of practice]. Communication is the heart of litigation. Id. at 1113.

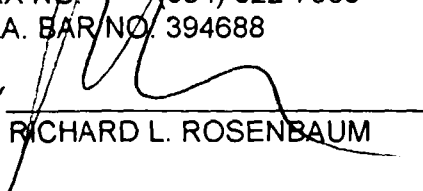
WHEREFORE, based upon the foregoing, the Defendant, Ariel Hernandez, respectfully requests this Honorable Court enter an Order permitting his counsel access to a Laptop computer and accessories during all pretrial and trial proceedings.

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was furnished by mail and/or via fax this 9<sup>th</sup> day of September, 2003 to: LIST OF ATTACHED COUNSEL.

Respectfully Submitted,

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BY

  
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**USA v. ARIEL HERNANDEZ  
UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA  
CASE NO: 00-06273-CR-HUCK**

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